



## Contacts for Further Information

If you are considering applying for a Prospective Purchaser Agreement, please contact ADEQ for assistance.

Jerry Smit  
Legal Services Unit  
(602) 771-2220  
(800) 234-5677 Ext. 771-2220

or visit the ADEQ website at:  
[www.azdeq.gov/environ/waste/sps/liability.html](http://www.azdeq.gov/environ/waste/sps/liability.html)



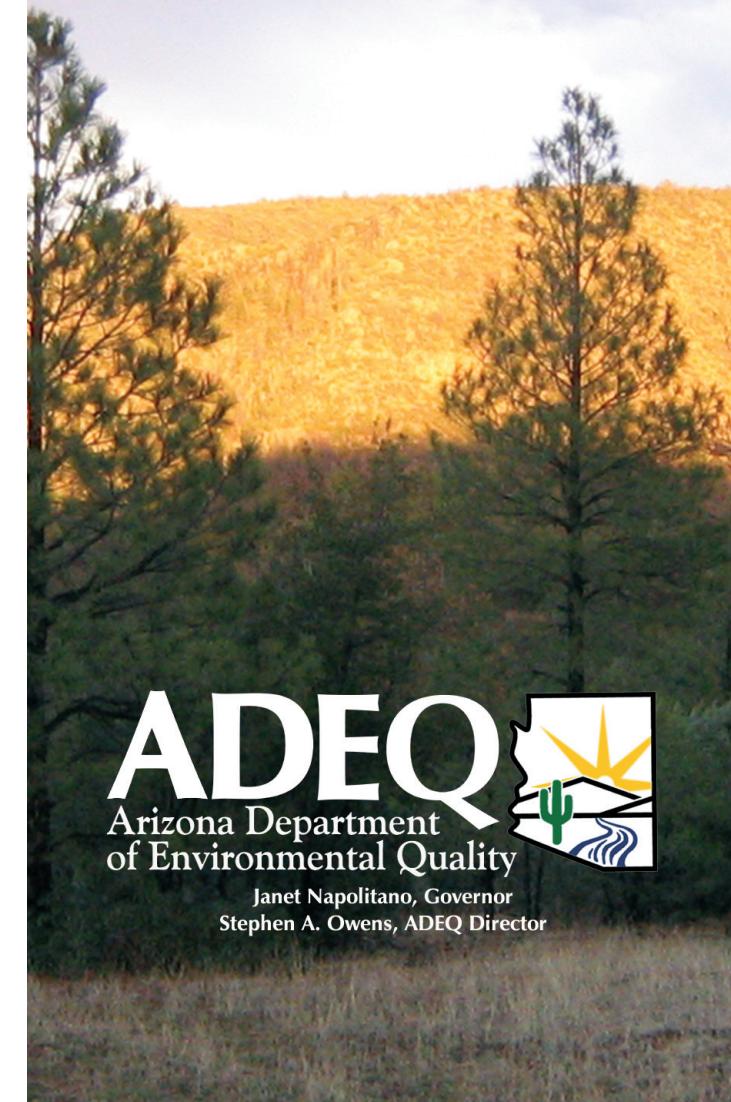
### Main Office

1110 W. Washington St.  
Phoenix, AZ 85007  
(602) 771-2300  
(800) 234-5677  
(602) 771-4829 (Hearing impaired)

*For more information about ADEQ, please visit our Web site at: [azdeq.gov](http://azdeq.gov)*

June 2005  
Publication No. C 05-18  
printed on recycled paper 

# Prospective Purchaser Agreement



Janet Napolitano, Governor  
Stephen A. Owens, ADEQ Director

## What is a Prospective Purchaser Agreement?

Arizona is one of a growing number of states to address, through statute, the liability issues associated with buying, selling or developing property contaminated by hazardous substances. Pursuant to A.R.S. §49-285.01, ADEQ may enter into a Prospective Purchaser Agreement (PPA), which provides a written release and covenant not to sue for any potential Water Quality Assurance Revolving Fund (WQARF) liability for existing contamination, if certain statutory conditions are met.

## How does a PPA work?

If the purchaser of the property did not contribute to the contamination at the site, potential WQARF and state Comprehensive Environmental Response, Compensation and Liability Act of 1980(CERCLA) liability may be avoided through a written agreement with ADEQ. Although statute also refers to providing immunity from contribution claims, which can only be provided through a court decree, ADEQ lacks the independent authority to prevent other parties from pursuing claims. ADEQ recognizes that because of the time constraints involved in the purchase and sale of real property, decisions on PPA eligibility and the negotiation/execution of PPAs must be made quickly and efficiently. The decision to enter into a PPA is a decision solely within the ADEQ's discretion. A draft agreement must be received by ADEQ before the closing is complete in order to be eligible for consideration of a PPA.

## Who Is Eligible for a PPA?

The PPA applicant must demonstrate to the Department that the applicant or site meet, at a minimum, the following criteria:

- The applicant did not cause or contribute to the contamination
- The applicant will not exacerbate or contribute to existing contamination
- Site activities will not unreasonably interfere with any ongoing remediation
- Public benefit
- Any remedial actions are conducted in accordance with applicable regulations
- The site is within a WQARF area or sufficient information has been collected to reasonably identify the extent of contamination at the site

In addition, the Department must consult with applicable local planning and zoning authorities and consider reasonably anticipated future land uses at the facility and surrounding properties.

## How much does it cost?

ADEQ charges a fee for preparation of the document and the fee is identified in rule. In addition, ADEQ must publicly notice a PPA through a newspaper of general circulation in the county in which the property is located. The publication costs are incurred by the prospective purchaser and are not included in the fee.